

IN RE: PETITION FOR VARIANCE	* BEFORE THE
N/S Franklin Avenue, SE of Marlyn	
and Myrth Avenues	* ZONING COMMISSIONER
(1000 Franklin Avenue)	
15th Election District	* OF BALTIMORE COUNTY
5th Councilmanic District	
	* Case No. 95-373-A
Cooperative Services, Inc.	
and American PCS, L.P.	*
Petitioners	
* * * * *	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as 1000 Franklin Avenue, located in the vicinity of the Middlesex Shopping Center in Essex. The Petition was filed by the owner of the property, Cooperative Services, Inc., by Dean K. Reger, Regional Manager, and the Contract Purchaser/Lessee, American PCS, L.P., by Margaret C. Ruggieri, Esquire, through G. Scott Barhight, Esquire. The Petitioners seek relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback from a residential zone of 80 feet in lieu of the required 200 feet for a wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Greg Sarro, a representative of American PCS, L.P., the Contract Lessee, and Consultants Andrew Werchniak, Debbie Meaney, and Michael T. Maguire, a Registered Property Line Surveyor. The Petitioners were represented by Christine McSherry, Esquire. There were no Protestants or other interested parties present.

This is another in a series of cases recently filed by Amercian PCS, L.P., hereinafter referred to as APC. APC is a new entrant in the cellular communication industry in Baltimore County. As described in

ORDER RECEIVED FOR FILING  
 Date 6/19/95  
 By [Signature]

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previous opinions by this Zoning Commissioner, APC specializes in wireless and mobile communications for its customers. Similar to Bell Atlantic and Cellular One, some of these communications involve telephone; however, others involve wireless fax communication and other computer information communication systems.

APC is currently in the process of establishing its communication network in Baltimore County. As is the case with other cellular providers, a grid system need be established to handle communications between mobile users. A series of interlocking grids are established which hand off mobile users from one grid to the next. In order to establish this grid, the company is acquiring sites in order to erect antenna which operate the relay, the radiowaves and frequencies established for the communication network. Most often, the company has used existing buildings and placed the antennae on top of same. In some cases, monopoles are constructed; however, installation on existing buildings is preferred in order to minimize the visual effect of an antenna and reduce costs.

In the instant case, the Petitioners propose installing six antennae on top of an existing 11-story brick apartment building on the subject property. This building is presently used to provide elderly housing. Special exception relief is not necessary in that the site is zoned B.M.-C.C.C. and wireless antennae are permitted as of right under the zoning regulations. However, the regulations do require a 200-foot setback from any adjoining residence or residential zone line. In this case, neighboring property is zoned D.R. 5.5 and the residential zone line is 80 feet away, thus, the requested relief is necessary.

The uncontradicted testimony and evidence offered indicated that the requested variance is justified in view of the configuration of the

ORDER RECEIVED FOR FILING

Date

By

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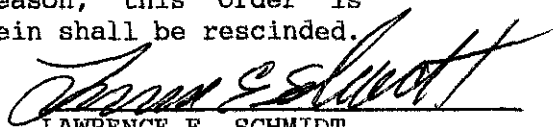
property and the location of the building on the tract. Moreover, Petitioner's Exhibit 2, a pamphlet prepared by American PCS, L.P., comprehensively discusses the effect of the antennae and their use. It is clear from this exhibit and the testimony presented that there will be no detriment to the surrounding locale by the subject use. Moreover, the Petitioner is encouraged to continue to utilize existing buildings so as to reduce the need for construction of unsightly monopoles.

Based on the testimony and evidence offered, all of which was uncontradicted, I am persuaded that the Petitioner has established his burden as set forth in Section 307 of the regulations and that the relief requested in the Petition for Variance should and must be granted.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, and for the reasons set forth above, the variance requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of June, 1995 that the Petition for Variance seeking relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback from a residential zone of 80 feet in lieu of the required 200 feet for a wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING

Date 6/9/95

By [Signature]

#366



# Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 1000 Franklin Avenue, Baltimore, MD 21221

which is presently zoned BM.CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

426.1.B To permit a setback of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.  
(Type or Print Name) for American PCS, L.P.

*Margaret C. Ruggieri*  
Signature  
One Democracy Center  
6901 Rockledge Drive  
Address

Bethesda, MD 20817  
City State Zipcode

Attorney for Petitioner:  
G. Scott Barhight, Esq.

*G. Scott Barhight*  
(Type or Print Name)  
Signature  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Ave. (410) 832-2000  
Address Phone No.  
Towson, MD 21204  
City State Zipcode

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Legal Owner(s)

Cooperative Services, Inc.

(Type or Print Name) By: Dean Reger, Regional Manager,  
Authorized Agent

*Dean Reger*  
Signature  
DEAN K. REGER  
(Type or Print Name)

Signature  
Suite 505  
1001 North Pointe Blvd (410) 288-9624  
Address Phone No.  
Baltimore, MD 21224  
City State Zipcode

Name, Address and phone number of representative to be contacted  
G. Scott Barhight, Esq.  
210 W. Pennsylvania Ave. 832-2000  
Address Phone No.  
Towson, MD 21204

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING  
unavailable for Hearing

the following dates \_\_\_\_\_ Next Two Months

ALL \_\_\_\_\_ OTHER \_\_\_\_\_  
REVIEWED BY: *mll* DATE: *4/19/95*

Printed with Soybean Ink  
on Recycled Paper

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ORDER RECEIVED FOR FILING

Date

By

#366  
95-373-A

**Description**

**To Accompany Petition For Special Exception**

**3.00 Acre Parcel**

**Cooperative Services, Inc. Property**

**East of Marlyn Avenue and North of Franklin Avenue**

**Fifteenth Election District**

**Baltimore County, Maryland**



Daft McCune Walker, Inc.

200 East Pennsylvania Avenue

Towson, Maryland 21286

410 296 3333

Fax 296 4705

A Team of Land Planners,

Landscape Architects,

Engineers, Surveyors &

Environmental Professionals

Beginning for the same on the east side of Marlyn Avenue at the end of the second of the two following courses and distances measured from the point formed by the intersection of the centerline of Myrth Avenue (50 feet wide) with the centerline of Marlyn Avenue (60 feet wide), (1) Southeasterly along the centerline of Marlyn Avenue 18'  $\pm$ , thence leaving said centerline and running (2) Northeasterly 30 feet  $\pm$ , to the point of beginning, said point of beginning having a coordinate value of North 6,376 feet, more or less, and East 42,336 feet, more or less, said values being referred to the coordinate system established in the Baltimore County Metropolitan District, thence leaving said point of beginning and running the fifteen following courses and distances, viz; (1) North 77 degrees 47 minutes 19 seconds East 223.34 feet, thence (2) North 12 degrees 12 minutes 41 seconds West 69.30 feet, thence (3) North 19 degrees 28 minutes 19 seconds East 107.17 feet, and thence (4) North 84 degrees 49 minutes 43 seconds East 115.88 feet, thence (5) North 02 degrees 20 minutes 06 seconds East 144.06 feet, thence (6) South 70 degrees 41 minutes 10 seconds East 241.22 feet, thence (7) South 19 degrees 18 minutes 50 seconds West 210.51 feet, thence (8) South 05 degrees 11 minutes 04 seconds East 32.90 feet, thence (9) South 70 degrees 41 minutes 10 seconds East 20.87 feet, thence (10) South 19 degrees 18 minutes 50 seconds West 107.38 feet, thence

MICHAEL J. WALKER

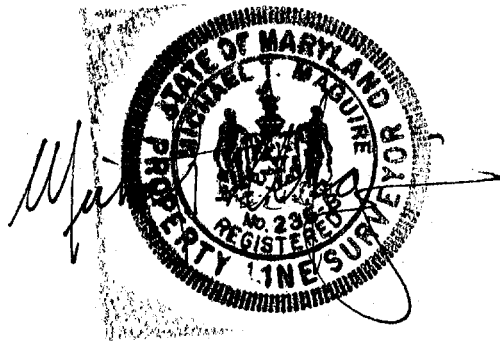
95-373-A

(11) South 77 degrees 47 minutes 19 seconds West 203.09 feet to the north side of Franklin Avenue (50 feet wide), thence binding on the North side of Franklin Avenue (12) South 77 degrees 47 minutes 19 seconds West 145.00 feet, thence leaving said north side of Franklin Avenue and running (13) North 12 degrees 12 minutes 41 seconds West 145.00 feet, thence (14) South 77 degrees 47 minutes 19 seconds West 140.00 feet to the east side of Marlyn Avenue (60 feet wide), thence binding on the east side of Marlyn Avenue (15) Northeasterly by a line curving to the right with a radius of 470.00 feet for a distance of 10.81 feet (the arc of said curve subtended by a chord bearing North 10 degrees 08 minutes 30 seconds East 10.81 feet) to the point of beginning. Containing 3.00 acres of land, more or less. Being known as Lot #1 on the plat of "Final Subdivision Plat for Essex Cooperative Apartment Building for Senior Citizens and Middlesex Shopping Center" recorded among the land records of Baltimore County in plat book 43 page 9.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 7, 1995

Project No. 94161.29



## NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #95-373-A  
(Item 386)  
1000 Franklin Avenue  
Essex Cooperative Apartments  
E/S Marlyn Avenue, opposite Myrth Avenue  
15th Election District  
6th Councilmanic  
Legal Owner(s):

Cooperative Services, Inc.  
Contract Purchaser:  
American PCS, L.P.  
Hearing: Tuesday,  
May 30, 1995 at 10:00 a.m. in Rm. 118, Old Courthouse.

Variance to permit a setback of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.

LAWRENCE E. SCHMIDT  
Zoning Commissioner for  
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Call 887-3353.

(2) For information concerning the File and/or Hearing, Please Call 887-3391.  
5/063 May 4.

## CERTIFICATE OF PUBLICATION

TOWSON, MD.,

5/5, 1995

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/4, 1995.

THE JEFFERSONIAN,

*A. Henrichson*

LEGAL AD. - TOWSON



Baltimore County  
Zoning Administration &  
Development Management  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt  
95-373-A

Account: R-001-6150

Number

Date 4/19/95

Taken In By: TNDK  
Item: 366

American PCS. L.P. - 1000 Franklin Avenue

020 - Variance — \$ 250.00

080 - 1 sign — \$ 35.00

---

Total — \$ 285.00

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03AD3#0168MICHRC

\$285.00

BA 0011:18AMD4-19-95

Please Make Checks Payable To: Baltimore County

Cashier Validation



Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County zoning regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.

**PAYMENT WILL BE MADE AS FOLLOWS:**

- 1) Posting fees will be accessed and paid to this office at the time of filing.
- 2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.

NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.

A handwritten signature in cursive script, reading "Arnold Jablon".

ARNOLD JABLON, DIRECTOR

-----  
For newspaper advertising:

Item No.: 366

Petitioner: American PCS, L.P.

Location: 1000 Franklin Avenue

PLEASE FORWARD ADVERTISING BILL TO:

NAME: G. Scott Backlight, Esq. et Whitford, Taylor + Preston

ADDRESS: 210 W. Pennsylvania Avenue

Towson, MD 21204

PHONE NUMBER: 832-2008

AJ:ggs

(Revised 04/09/93)



Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

April 28, 1995

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in  
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204  
or  
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 95-373-A (Item 366)  
1000 Franklin Avenue  
Essex Cooperative Apartments  
E/S Marlyn Avenue, opposite Myrth Avenue  
15th Election District - 5th Councilmanic  
Legal Owner(s): Cooperative Services, Inc.  
Contract Purchaser: American PCS, L.P.  
HEARING: TUESDAY, MAY 30, 1995 at 10:00 a.m. in Room 118 Old Courthouse.

Variance to permit a setback of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon  
Director

cc: Cooperative Services, Inc.  
Margaret C. Ruggieri, Esq.  
G. Scott Barhight, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

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**American Personal  
Communications**

**AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
May 30, 1995**

**TABLE OF CONTENTS**

1. Photographs of 1000 Franklin Avenue
2. Photographs and Specification Sheets for Antennas
3. Photograph and Specification Sheets for Equipment Cabinets
4. FCC License
5. FCC Adopts ANSI EMF Regulations
6. Radio Frequency Statement - Jules Cohen
7. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
8. FCC's Chairman, Reed Hundt, Speech Excerpts

**PETITIONER'S  
EXHIBIT 2**

Baltimore County Government  
Office of Zoning Administration  
and Development Management



111 West Chesapeake Avenue  
Towson, MD 21204

(410) 887-3353

May 23, 1995

G. Scott Barhight, Esquire  
210 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: Item No.: 366  
Case No.: 95-373-A  
Petitioner: Cooperative Services

Dear Mr. Barhight:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by, the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 19, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Carl Richards, Jr.", is written over the typed name.

W. Carl Richards, Jr.  
Zoning Supervisor

WCR/jw  
Attachment(s)



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: May 10, 1995

FROM: Pat Keller, Director  
Office of Planning and Zoning

A

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):

Item Nos. 365, 366 and 389.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W. Long

Division Chief:

Cary L. Kerns

PK/JL



**Maryland Department of Transportation**  
**State Highway Administration**

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

5-2-85

Ms. Joyce Watson  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No.: 366 (MSK)

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

*Bob Small*

*for*

Ronald Burns, Chief  
Engineering Access Permits  
Division

BS/

Baltimore County Government  
Fire Department



700 East Joppa Road Suite 901  
Towson, MD 21286-5500

(410) 887-4500

DATE: 05/05/95

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
MAIL STOP-1105

Property Owner: SEE BELOW

ITEM: DISTRIBUTION MEETING OF MAY 1, 1995.

Item No.: SEE BELOW

Zoning Agents:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time.  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367, 369, 370, 371, 372, 373, 374, 375, 376 and 377.

**RECEIVED**  
MAY 8 1995  
**ZADM**

REVIEWER: LT. ROBERT P. GOWERWALD  
Fire Marshal Office, PHONE 887-4881, MS-1105F

cc: File



BALTIMORE COUNTY, MARYLAND  
I N T E R O F F I C E   C O R R E S P O N D E N C E

TO: Arnold Jablon, Director      DATE: May 8, 1995  
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E., Chief  
Developers Engineering Section

RE: Zoning Advisory Committee Meeting  
for May 8, 1995  
Items 362, 363, 364, 366, 367, 369, 372, 373, 374 and 375 and Case No. 95-308-X

The Developers Engineering Section has reviewed the subject zoning item and we have no comments.

RWB:sw

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# **PETITION PROBLEMS AGENDA OF MAY 1, 1995**

**#363 --- RT**

1. No signature for contract purchaser.

**#366 --- MJK**

1. Need authorization for person signing for legal owner.
2. Need authorization for person signing for contract purchaser.
3. Why isn't "Franklin Avenue" (property location) mentioned in the description?

**#367 --- JCM**

1. Folder not marked critical.

**#372 --- RT**

1. Only one legal owner signature on back of petition form.

**#376 --- RT**

1. Folder not marked critical.

**#377 --- RT**

1. Folder not marked critical.

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RE: PETITION FOR VARIANCE  
1000 Franklin Avenue (Essex Cooperative  
Apartments), E/S Marlyn Avenue, opposite  
Myrth Avenue, 15th Election District,  
5th Councilmanic

Cooperative Services, Inc. /  
American PCS, L.P.  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* CASE NO. 95-373-A

\* \* \* \* \*

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

*Carole S. Demilio*

CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9<sup>th</sup> day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

*Peter Max Zimmerman*

PETER MAX ZIMMERMAN



Baltimore County  
Department of Permits and  
Development Management

Development Processing  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

March 19, 1997

Mr. Kevin L. Mason  
Entel Technologies, Inc.  
1110 North Glebe Road, Suite 850  
Arlington, VA 22201

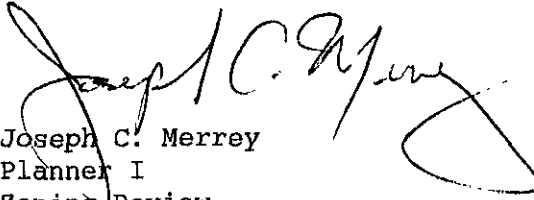
RE: Spirit and Intent  
1000 Franklin Avenue  
15th Election District

Dear Mr. Mason:

Upon review of your correspondence dated March 6, 1997 regarding the above referenced matter, please be advised that it is the opinion of this office that your request to upgrade and expand the subject facility with: Six (6) panel antennas measuring 48 inches in height x 6.1 inches in width x 2.8 inches in depth; and, three (3) equipment cabinets measuring approximately 6.0 inches in height x 30 inches in width x 30 inches, is within the spirit and intent of zoning case #95-373-A.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 887-3391.

Very truly yours,

  
Joseph C. Merrey  
Planner I  
Zoning Review

JCM:rye

Enclosure



PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

Greg Sarro

Andrew Werchniak

MIKE MAGUIRE

Debbie Meaney

ADDRESS

6901 Rockledge Dr.  
Bethesda MD 20817

Two Skyline Place  
5203 Leesburg Pike  
Suite 800

Falls Church, VA 22041  
200 E. PENNSYLVANIA AVE  
TOWSON MD 21286

Shady Grove Rd  
Rockville, Md 20850



Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning



Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

(410) 887-4386

June 9, 1995

Christine McSherry, Esquire  
G. Scott Barhight, Esquire  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
N/S Franklin Avenue, SE of Marlyn and Myrth Avenues  
(1000 Franklin Avenue)  
15th Election District - 5th Councilmanic District  
Cooperative Services, Inc. and American PCS, L.P. - Petitioners  
Case No. 95-373-A

Dear Ms. McSherry and Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Mr. Dean K. Reger, Cooperative Services, Inc.  
1001 North Point Blvd., Suite 505, Baltimore, Md. 21224

Margaret C. Ruggieri, Esquire and Greg Sarro  
American PCS., L.P., 6901 Rockledge Drive, Bethesda, Md. 20817

Mr. Michael Maguire, Daft-McCune-Walker, Inc.  
200 E. Pennsylvania Avenue, Towson, Md. 21286

People's Counsel; File

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**CERTIFICATE OF POSTING**  
**ZONING DEPARTMENT OF BALTIMORE COUNTY**  
**Towson, Maryland**

93-373-17

District 1524 Date of Posting 5/13/95

Posted for: Voriano

Petitioner: Cooperative Service to American PCS, L.A.

Location of property: 1000 Franklin Ave, E/S

Location of Signs: Facing roadway on property being zoned

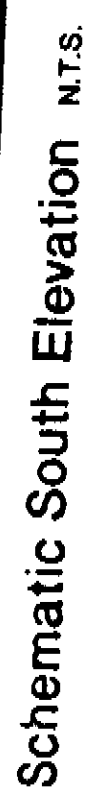
Remarks: \_\_\_\_\_

Posted by M. J. Terley Date of return: 5/19/95  
Signature

Number of Signs: 1







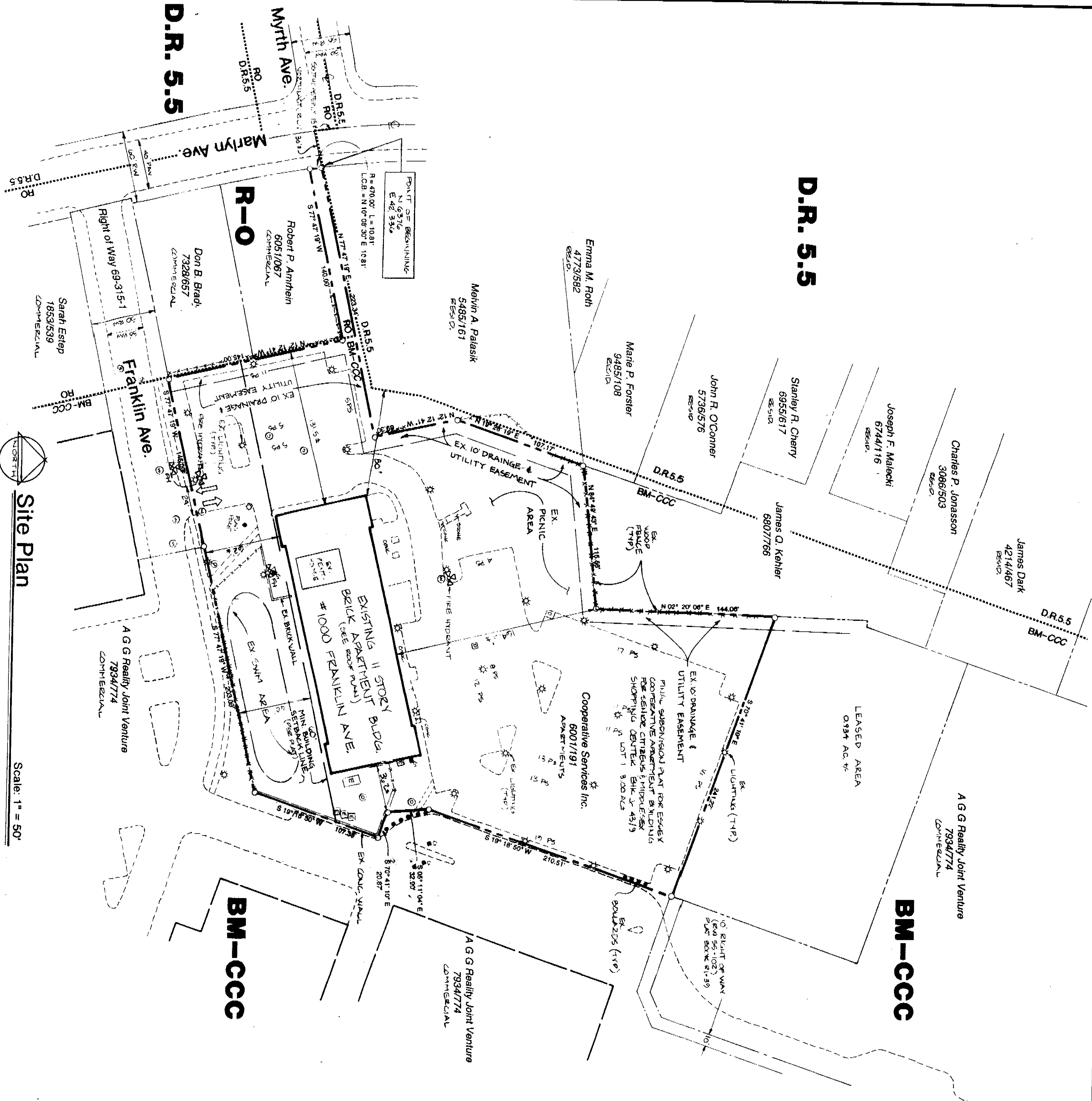
- |     |   |     |   |     |   |     |   |
|-----|---|-----|---|-----|---|-----|---|
| 1.  | Current owner and street address:<br>Telecommunications Services, Inc.<br>1000 Franklin Avenue<br>Baltimore, MD 21221   | 12. | Existing Use:<br>Apartments for the elderly and related off-street parking  | 16. | Floor Area Ratio:<br>Proposed: 1.8  | 10. | Allowed Maximum:<br>4.00  |
| 2.  | Contractor:<br>American PCS, LP<br>One Dulaney Center<br>6801 Rockledge Drive, Suite 900<br>Bethesda, MD 20817  | 13. | Street Address:<br>1000 Franklin Avenue<br>Baltimore, MD 21221  | 17. | Parking:<br>Required Spaces: 25<br>Existing Spaces: 150<br>Proposed Spaces: 9                                   | 11. | Additional use or antenna lights are proposed.  |
| 3.  | Site area:<br>3.00 Ac.±   | 14. | Site data:<br>Tax map 90, block 21, parcel 721 - 1<br>Tax reference: 890<br>Parcel number: 15-180007657<br>Tax Account No. 15-180007657<br>Zoning: BM - COC<br>Election District: 15<br>Congressional District: 5 | 18. | The proposed wireless transmitting and receiving facility does not block or affect any existing parking spaces. | 12. | Zoning History:<br>The site was subject to zoning case #65-373-A, requesting a Variance from Section 425.19 to permit a setback of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the 200'. On June 9, 1998 the City Planning Commission of Baltimore County ordered that the Variance be granted.                                    |
| 4.  | The information and boundary location shown herein have been compiled from sources believed to be reliable; however, their accuracy is not guaranteed and is subject to revision.                                   | 15. | There are no signs proposed for the facility.   | 13. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 14. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 5.  | Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times. If an exception is required, an Environmental Impact Statement will be provided as the funding. | 16. | There are no signs proposed for the facility.   | 15. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 15. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 6.  | No additional use or antenna lights are proposed.   | 17. | There are no signs proposed for the facility.   | 16. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 16. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 7.  | No additional use or antenna lights are proposed.   | 18. | There are no signs proposed for the facility.   | 17. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 17. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 8.  | No additional use or antenna lights are proposed.   | 19. | There are no signs proposed for the facility.   | 18. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 18. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 9.  | No additional use or antenna lights are proposed.   | 20. | There are no signs proposed for the facility.   | 19. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 19. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 10. | No additional use or antenna lights are proposed.   | 21. | There are no signs proposed for the facility.   | 20. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 20. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 11. | No additional use or antenna lights are proposed.   | 22. | There are no signs proposed for the facility.   | 21. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 21. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 12. | No additional use or antenna lights are proposed.   | 23. | There are no signs proposed for the facility.   | 22. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 22. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 13. | No additional use or antenna lights are proposed.   | 24. | There are no signs proposed for the facility.   | 23. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 23. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 14. | No additional use or antenna lights are proposed.   | 25. | There are no signs proposed for the facility.   | 24. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 24. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 15. | No additional use or antenna lights are proposed.   | 26. | There are no signs proposed for the facility.   | 25. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 25. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 16. | No additional use or antenna lights are proposed.   | 27. | There are no signs proposed for the facility.   | 26. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 26. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 17. | No additional use or antenna lights are proposed.   | 28. | There are no signs proposed for the facility.   | 27. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 27. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 18. | No additional use or antenna lights are proposed.   | 29. | There are no signs proposed for the facility.   | 28. | Setbacks:<br>Front: 20' ±<br>Side (east): 62.0' ±<br>Side (west): 25' ±<br>Rear: 25' ±<br>194.5' ±              | 28. | Requested Zoning Action<br>Special Exception pursuant to Section 33.4 to permit a wireless transmitting and receiving facility not permitted by Section 426 in a BM-COC Zone<br>or, in the alternative,<br>Variance from Section 425.19 to permit a set back of 80' from a D.R. Zone for a roof-mounted transmitting and receiving facility in lieu of the required 200 feet. |
| 19. | No additional use or antenna lights are proposed.   | 30  |   |     |   |     |   |







**D.R. 5.5**

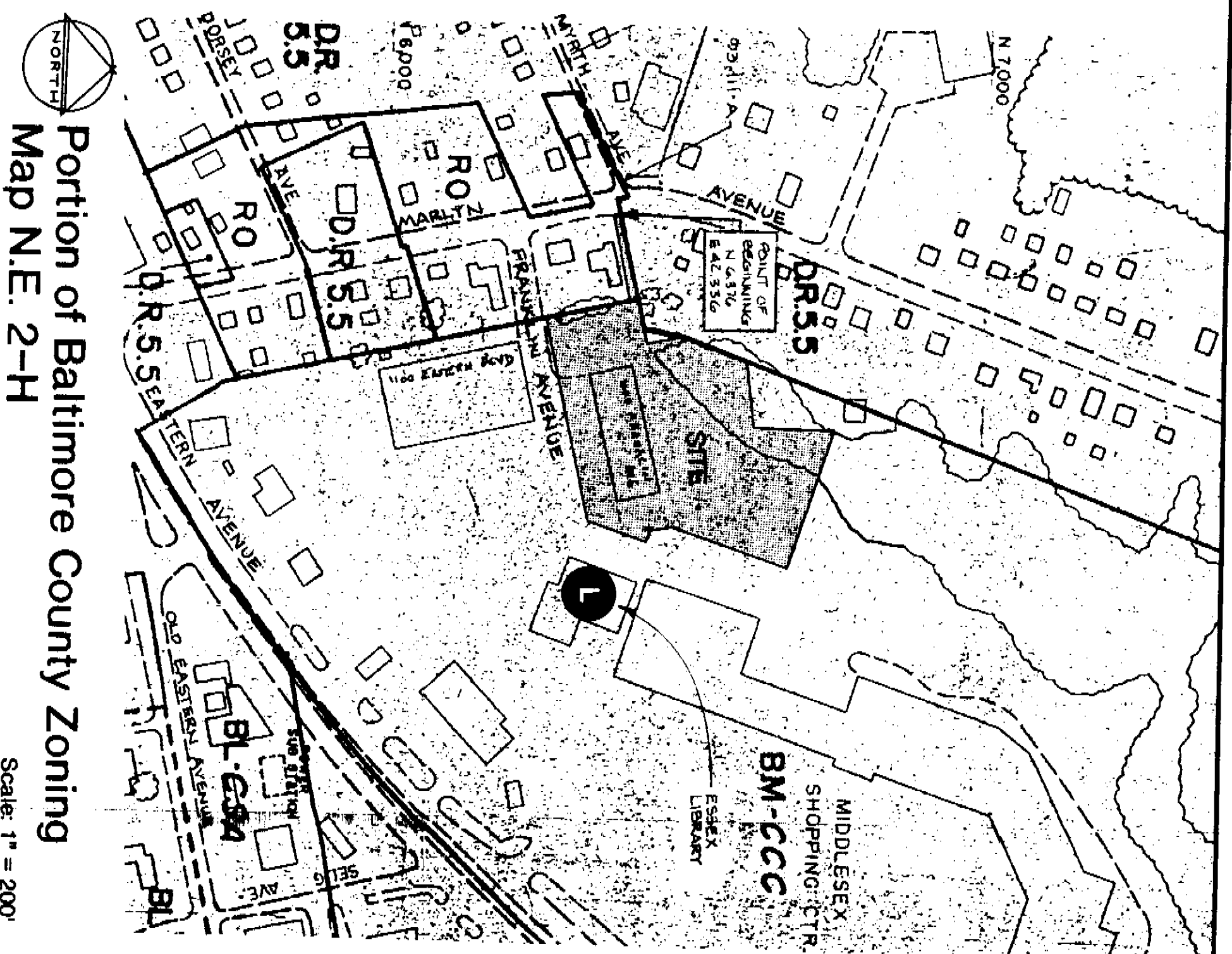


## Site Plan

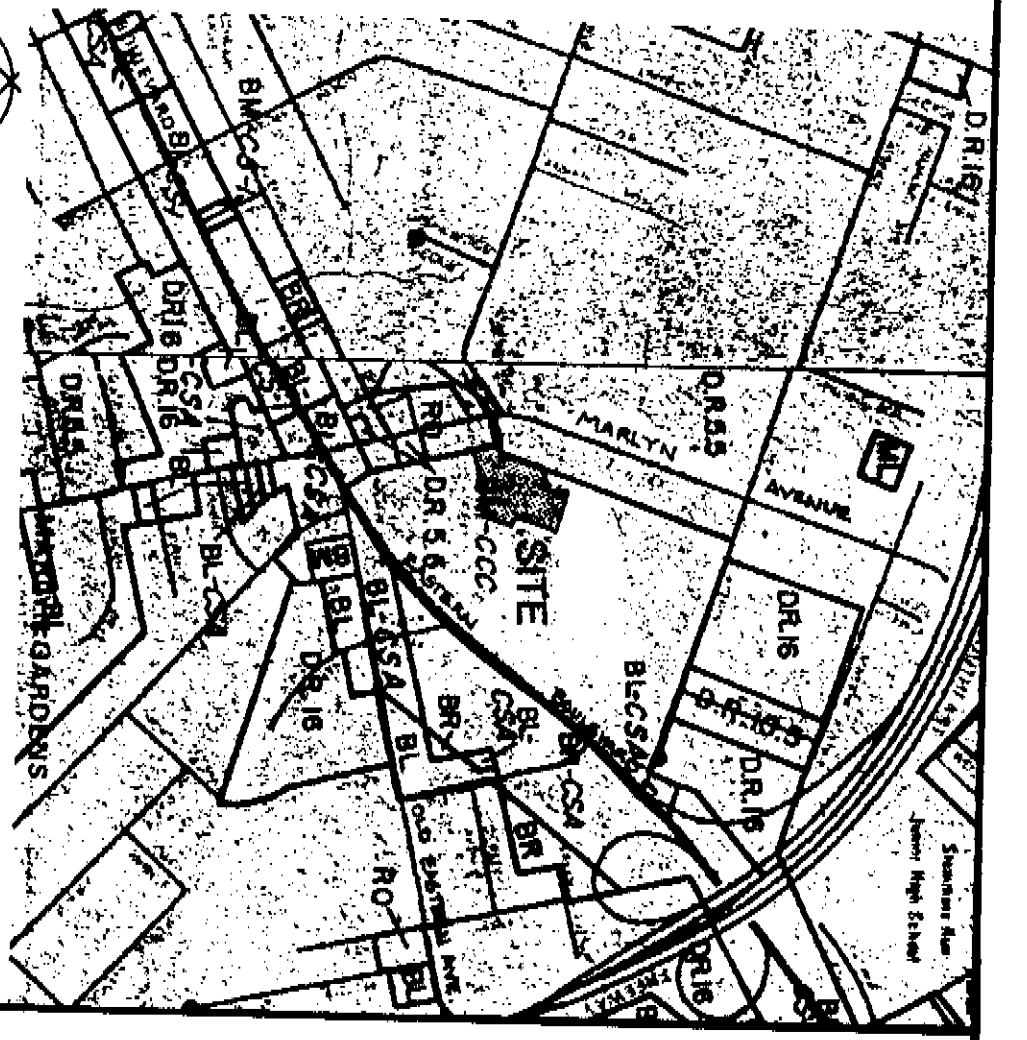
Scale: 1" = 50'

- | NOTES:   |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
|--|--|-----------------------------|------------------------------|------------------|-----------------|------------------|---------|-------------------------------|---------|--------------|----------|--|
| 1.   | Current owner and street address:<br>Cooperative Services, Inc.<br>1000 Franklin Avenue<br>Baltimore, MD 21221   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 2.   | Contract (lessee):<br>American PCS, LP<br>10000 American Lane<br>690 Rockledge Drive, Suite 600<br>Bethesda, MD 20817  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 3.   | Site area:<br>3,000 sq. ft.  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 4.   | Existing use:<br>Agreements for the elderly and related of Street Parking  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 5.   | Street Address:<br>1000 Franklin Avenue<br>Baltimore, MD 21221   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 6.   | Site data:<br>Tax map 90, block 21, parcel 721 - 1<br>Parcel No. 15-180007067<br>Tax Account No. 15-180007067<br>Parcel Address: 426 N. 15th St.<br>Election District: 15<br>Councilmanic District: 5  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 7.   | The proposed roof mounted wireless transmitting and receiving facility will consist of (6) 3.5' high x 6.3' wide x 2.7' deep pane antennas, and (2) x 4.5' high x 4.5' wide x 1.9' deep equipment cabinets.<br>No water or sanitary utilities are required for the facility.   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 9.   | The information and boundary location shown herein have been compiled from sources believed to be reliable, however their accuracy is not guaranteed and is subject to revision.   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 10.  | Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times.  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 11.  | No additional site or antenna lights are proposed  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 12.  | Zoning History: None on this parcel.   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 13.  | There are no signs proposed for this facility  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 14.  | Setbacks:<br><table> <tr> <th>Required</th><th>Provided</th></tr> <tr> <td>Front: 60 ft</td><td>60 ft</td></tr> <tr> <td>Side (each): 25'</td><td>36.2' ±</td></tr> <tr> <td>Back: 25'</td><td>36.2' ±</td></tr> <tr> <td>Rear: 25'</td><td>164.5' ±</td></tr> </table>  | Required                    | Provided                     | Front: 60 ft     | 60 ft           | Side (each): 25' | 36.2' ± | Back: 25'                     | 36.2' ± | Rear: 25'    | 164.5' ± |  |
| Required   | Provided   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Front: 60 ft   | 60 ft  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Side (each): 25'   | 36.2' ±  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Back: 25'  | 36.2' ±  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Rear: 25'  | 164.5' ±   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 15.  | Antenna open space:<br>Required Minimum: 0.20 ac ±<br>Provided: 0.35 ac ±  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 16.  | Floor Area Ratio:<br>Allowed Maximum: 4.00   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 17.  | Parking:<br><table> <tr> <th>Required Spaces:</th><th>220</th></tr> <tr> <th>Existing Spaces:</th><th>150</th></tr> <tr> <th>Proposed Spaces:</th><th>0</th></tr> </table><br>The proposed wireless transmitting and receiving facility does not block or affect any existing parking spaces.  | Required Spaces:            | 220                          | Existing Spaces: | 150             | Proposed Spaces: | 0       |                               |         |              |          |  |
| Required Spaces:   | 220  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Existing Spaces:   | 150  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Proposed Spaces:   | 0  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 18.  | This site was the subject of the following Commercial Permits:<br><table> <tr> <td>179.81 Building Alterations</td><td>1065.60 Installation of tank</td></tr> <tr> <td>1143.78 Grading</td><td>1180.79 Parking</td></tr> <tr> <td>1143.79 Grading</td><td></td></tr> <tr> <td>1255.78 Building Construction</td><td></td></tr> <tr> <td>726.79 Fence</td><td></td></tr> </table> | 179.81 Building Alterations | 1065.60 Installation of tank | 1143.78 Grading  | 1180.79 Parking | 1143.79 Grading  |         | 1255.78 Building Construction |         | 726.79 Fence |          |  |
| 179.81 Building Alterations  | 1065.60 Installation of tank   |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 1143.78 Grading  | 1180.79 Parking  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 1143.79 Grading  |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 1255.78 Building Construction  |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| 726.79 Fence   |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| <b>Requested Zoning Action</b>   |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |
| Variance from § 426.118 to permit a set back of 60 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet. |  |                             |                              |                  |                 |                  |         |                               |         |              |          |  |

# Map N.E. 2-H

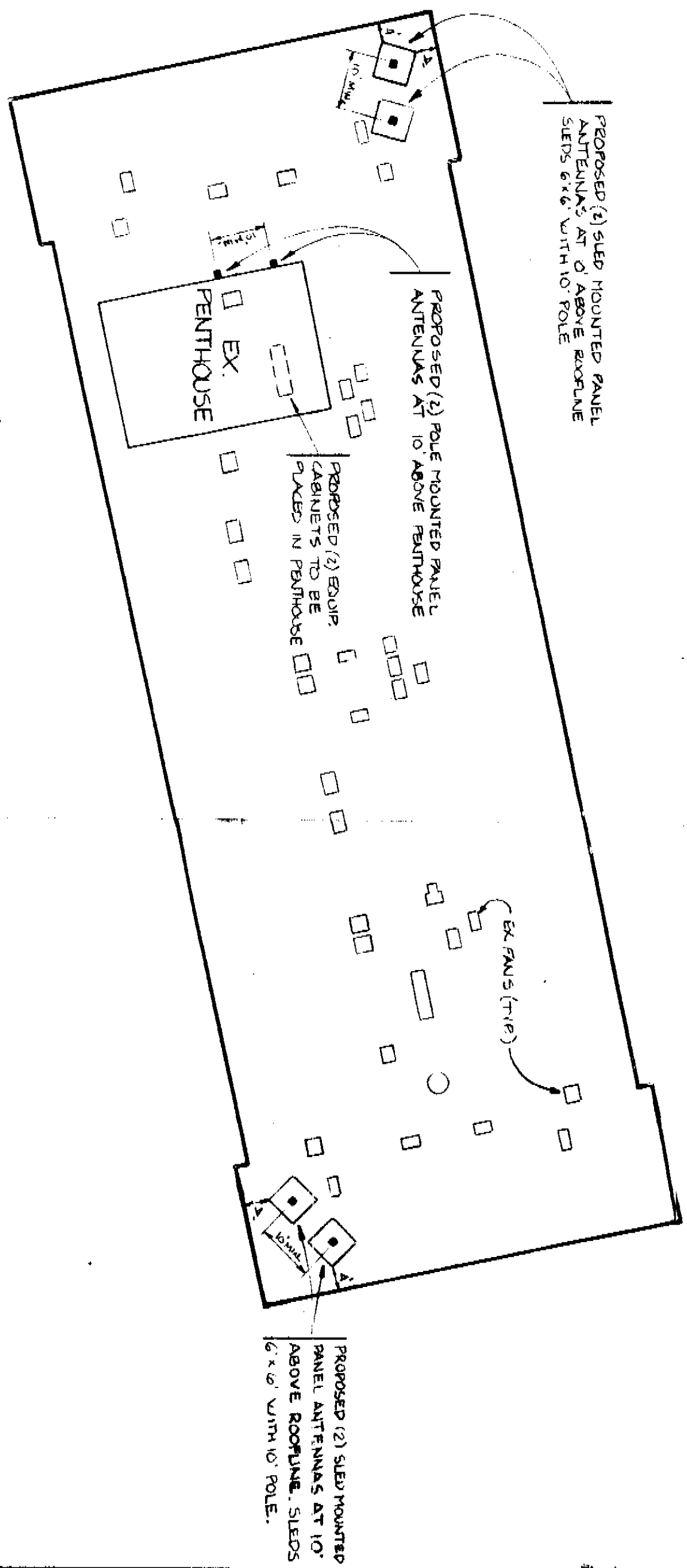


**→ Vicinity Map and Portion  
of Baltimore County  
Zoning Maps F-2 and  
F-3**

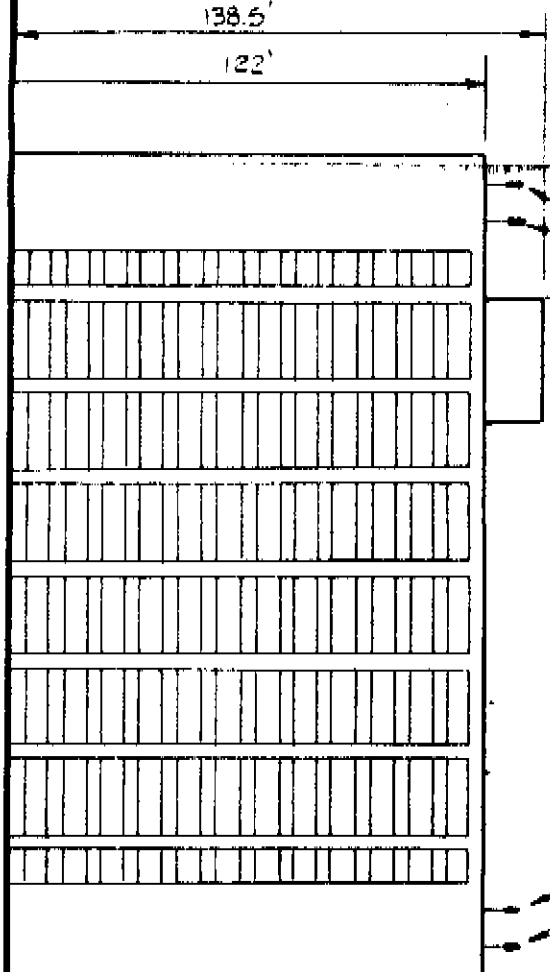


## ROOF PLAN

Scale: 1" = 20'



PRINTED



**Schematic South Elevation** N.T.S.

WITNESS  
EXHIBIT No. 1


**American Personal Communications**

Site Plan to Accompany Petition for Variance

<b>Essex Cooperative Apartments</b> 15th Election District	<b>BAN 40</b> Baltimore County, Maryland
---	---

**DWIM**  
Doug McCombe Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Physiologists

1000 E. Pennsylvania Avenue  
Towson, Maryland 21286  
(410) 206-3333  
706-4705



IN RE: PETITION FOR VARIANCE \* BEFORE THE  
N/S Franklin Avenue, SE of Marlyn \* ZONING COMMISSIONER  
and Myrth Avenues (1000 Franklin Avenue) \* OF BALTIMORE COUNTY  
15th Election District \* Case No. 95-373-A  
5th Councilmanic District  
Cooperative Services, Inc. and American PCS, L.P. Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Variance for that property known as 1000 Franklin Avenue, located in the vicinity of the Middlesex Shopping Center in Essex. The Petition was filed by the owner of the property, Cooperative Services, Inc., by Dean K. Reger, Regional Manager, and the Contract Purchaser/Lessee, American PCS, L.P., by Margaret C. Ruggieri, Esquire, through G. Scott Barhight, Esquire. The Petitioners seek relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback from a residential zone of 80 feet in lieu of the required 200 feet for a wireless transmitting and receiving facility. The subject property and relief sought are more particularly described on the site plan submitted and accepted into evidence as Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Greg Sarro, a representative of American PCS, L.P., the Contract Lessee, and Consultants Andrew Werchniak, Debbie Meaney, and Michael T. Maguire, a Registered Property Line Surveyor. The Petitioners were represented by Christine McSherry, Esquire. There were no Protestants or other interested parties present.

This is another in a series of cases recently filed by American PCS, L.P., hereinafter referred to as APC. APC is a new entrant in the cellular communication industry in Baltimore County. As described in

previous opinions by this Zoning Commissioner, APC specializes in wireless and mobile communications for its customers. Similar to Bell Atlantic and Cellular One, some of these communications involve telephone; however, others involve wireless fax communication and other computer information communication systems.

APC is currently in the process of establishing its communication network in Baltimore County. As is the case with other cellular providers, a grid system need be established to handle communications between mobile users. A series of interlocking grids are established which hand off mobile users from one grid to the next. In order to establish this grid, the company is acquiring sites in order to erect antenna which operate the relay, the radiowaves and frequencies established for the communication network. Most often, the company has used existing buildings and placed the antennae on top of same. In some cases, monopoles are constructed; however, installation on existing buildings is preferred in order to minimize the visual effect of an antenna and reduce costs.

In the instant case, the Petitioners propose installing six antennae on top of an existing 11-story brick apartment building on the subject property. This building is presently used to provide elderly housing. Special exception relief is not necessary in that the site is zoned B.M.-C.C.C. and wireless antennae are permitted as of right under the zoning regulations. However, the regulations do require a 200-foot setback from any adjoining residence or residential zone line. In this case, neighboring property is zoned D.R. 5.5 and the residential zone line is 80 feet away, thus, the requested relief is necessary.

The uncontradicted testimony and evidence offered indicated that the requested variance is justified in view of the configuration of the

property and the location of the building on the tract. Moreover, Petitioner's Exhibit 2, a pamphlet prepared by American PCS, L.P., comprehensively discusses the effect of the antennae and their use. It is clear from this exhibit and the testimony presented that there will be no detriment to the surrounding locale by the subject use. Moreover, the Petitioner is encouraged to continue to utilize existing buildings so as to reduce the need for construction of unsightly monopoles.

Based on the testimony and evidence offered, all of which was uncontradicted, I am persuaded that the Petitioner has established his burden as set forth in Section 307 of the regulations and that the relief requested in the Petition for Variance should and must be granted.

Pursuant to the advertisement, posting of the property, and public hearing held thereon, and for the reasons set forth above, the variance requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 9th day of June, 1995 that the Petition for Variance seeking relief from Section 426.1.B of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback from a residential zone of 80 feet in lieu of the required 200 feet for a wireless transmitting and receiving facility, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

*Lawrence E. Schmidt*  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

Baltimore County Government  
Zoning Commissioner  
Office of Planning and Zoning

June 9, 1995

(410) 887-4386

Suite 112 Courthouse  
400 Washington Avenue  
Towson, MD 21204

Christine McSherry, Esquire  
G. Scott Barhight, Esquire  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Avenue  
Towson, Maryland 21204

RE: PETITION FOR VARIANCE  
N/S Franklin Avenue, SE of Marlyn and Myrth Avenues  
(1000 Franklin Avenue)  
15th Election District - 5th Councilmanic District  
Cooperative Services, Inc. and American PCS, L.P. - Petitioners  
Case No. 95-373-A

Dear Ms. McSherry and Mr. Barhight:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

Very truly yours,

*Lawrence E. Schmidt*  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs

cc: Mr. Dean K. Reger, Cooperative Services, Inc.  
1001 North Point Blvd., Suite 505, Baltimore, Md. 21224

Margaret C. Ruggieri, Esquire and Greg Sarro  
American PCS, L.P., 6901 Rockledge Drive, Bethesda, Md. 20817

Mr. Michael Maguire, Daft-McCune-Walker, Inc.  
200 E. Pennsylvania Avenue, Towson, Md. 21286

People's Counsel: F16

Printed with Soy-based Ink  
on Recycled Paper

## Petition for Variance to the Zoning Commissioner of Baltimore County for the property located at 1000 Franklin Avenue, Baltimore, MD 21221

which is presently zoned BM.CCC

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

426.1.B To permit a setback of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be presented at the hearing.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to abide by and be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser/Lessee:

Margaret C. Ruggieri, Esq.  
Type or Print Name for American PCS, L.P.

*Margaret C. Ruggieri*  
Signature  
One Democracy Center  
6901 Rockledge Drive  
Bethesda, MD 20817

City, State, Zipcode

By: G. Scott Barhight, Esq.

*G. Scott Barhight*  
Signature  
Whiteford, Taylor & Preston  
210 W. Pennsylvania Ave. (410) 832-2000

Address, City, State, Zipcode

Towson, MD 21204

City, State, Zipcode

Why do I solemnly declare and affirm, under the penalties of perjury, that I am the legal owner(s) of the property herein is the subject of this Petition

Legal Owner(s):

Cooperative Services, Inc.

By: Dean K. Reger, Regional Manager, Authorized Agent

*Dean K. Reger*  
Signature  
DEAN K. REGER  
Type or Print Name

City, State, Zipcode

Suite 505  
1001 North Pointe Blvd (410) 288-9624

Address, City, State, Zipcode

Baltimore, MD 21224

City, State, Zipcode

Towson, MD 21204

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

City, State, Zipcode

DMW

Daft-McCune-Walker, Inc.

200 East Pennsylvania Avenue  
Towson, Maryland 21206  
410 296 3333  
Fax 296 4795

A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals

Description  
To Accompany Petition For Special Exception  
3.00 Acre Parcel  
Cooperative Services, Inc. Property  
East of Marlyn Avenue and North of Franklin Avenue  
Fifteenth Election District  
Baltimore County, Maryland

Beginning for the same on the east side of Marlyn Avenue at the end of the second of the two following courses and distances measured from the point formed by the intersection of the centerline of Myrth Avenue (50 feet wide) with the centerline of Marlyn Avenue (60 feet wide), (1) Southeasterly along the centerline of Marlyn Avenue 18' ±, thence leaving said centerline and running (2) Northeasterly 30 feet ±, to the point of beginning, said point of beginning having a coordinate value of North 6,376 feet, more or less, and East 42,336 feet, more or less, said values being referred to the coordinate system established in the Baltimore County Metropolitan District, thence leaving said point of beginning and running the fifteen following courses and distances, viz: (1) North 77 degrees 47 minutes 19 seconds East 223.34 feet, thence (2) North 12 degrees 12 minutes 41 seconds West 69.30 feet, thence (3) North 19 degrees 28 minutes 19 seconds East 107.17 feet, and thence (4) North 84 degrees 49 minutes 43 seconds East 115.88 feet, thence (5) North 02 degrees 20 minutes 06 seconds East 144.06 feet, thence (6) South 70 degrees 41 minutes 10 seconds East 241.22 feet, thence (7) South 19 degrees 18 minutes 50 seconds West 210.51 feet, thence (8) South 05 degrees 11 minutes 04 seconds East 32.90 feet, thence (9) South 70 degrees 41 minutes 10 seconds East 20.87 feet, thence (10) South 19 degrees 18 minutes 50 seconds West 107.38 feet, thence

(11) South 77 degrees 47 minutes 19 seconds West 203.09 feet to the north side of Franklin Avenue (50 feet wide), thence binding on the North side of Franklin Avenue (12) South 77 degrees 47 minutes 19 seconds West 145.00 feet, thence leaving said north side of Franklin Avenue and running (13) North 12 degrees 12 minutes 41 seconds West 145.00 feet, thence (14) South 77 degrees 47 minutes 19 seconds West 140.00 feet to the east side of Marlyn Avenue (60 feet wide), thence binding on the east side of Marlyn Avenue (15) Northeasterly by a line curving to the right with a radius of 470.00 feet for a distance of 10.81 feet (the arc of said curve subtended by a chord bearing North 10 degrees 08 minutes 30 seconds East 10.81 feet) to the point of beginning. Containing 3.00 acres of land, more or less. Being known as Lot #1 on the plat of "Final Subdivision Plat for Essex Cooperative Apartment Building for Senior Citizens and Middlesex Shopping Center" recorded among the land records of Baltimore County in plat book 43 page 9.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

April 7, 1995

Project No. 94161.29



#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 15th  
Posted for: 15th  
Petitioner: Cooperative Services, Inc. & American PCS, L.P.  
Location of property: 1000 Franklin Ave. Bldg.  
Location of Signs: Posting Marlyn Ave. Property being zoned  
Remarks:  
Posted by: [Signature]  
Number of Signs: 1  
Date of Posting: 5/13/95  
Date of return: 5/19/95

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., 5/5, 1995  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 5/4, 1995.

THE JEFFERSONIAN,  
LEGAL AD. - TOWSON

Publication

ORDER RECEIVED FOR FILING  
Date: 6/9/95  
By: [Signature]

Printed with Soy-based Ink  
on Recycled Paper



receipt  
95-373-A  
Account: R 001-6150  
Number  
Date 4/19/95  
American PCS, L.P. - 1000 Franklin Avenue  
020 - Variance - \$ 250.00  
020 - Legal - \$ 25.00  
Total - \$ 275.00  
Please Make Checks Payable To: Baltimore County  
Cashier Validation

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204  
(410) 887-3353  
ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES  
Baltimore County zoning regulations require that notice be given to the general public/neighborhood property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.  
This office will ensure that the legal requirements for posting and advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements.  
PAYMENT WILL BE MADE AS FOLLOWS:  
1) Posting fees will be assessed and paid to this office at the time of filing.  
2) Billing for legal advertising, due upon receipt, will come from and should be remitted directly to the newspaper.  
NON-PAYMENT OF ADVERTISING FEES WILL STAY ISSUANCE OF ZONING ORDER.  
Arnold Jablon, Director  
For newspaper advertising:  
Item No.: 366  
Petitioner: American PCS, L.P.  
Location: 1000 Franklin Avenue  
PLEASE FORWARD ADVERTISING BILL TO:  
NAME: G. Scott Barhight, Esq. + Whitford, Taylor + Preston  
ADDRESS: 210 W. Pennsylvania Avenue  
Towson, MD 21204  
PHONE NUMBER: 832-2005  
AJ:ggg (Revised 04/09/93)

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204  
(410) 887-3353  
April 28, 1995  
NOTICE OF HEARING  
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:  
CASE NUMBER: 95-373-A (Item 366)  
1000 Franklin Avenue  
Essex Cooperative Apartments  
6/5 Berlyn Avenue, opposite 84th Avenue  
15th Election District - 5th Councilmanic  
Legal Owner(s): Cooperative Services, Inc.  
Contract Purchaser: American PCS, L.P.  
HEARING: TUESDAY, MAY 30, 1995 at 10:00 a.m. in Room 118 Old Courthouse.  
Variance to permit a setback of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.  
Arnold Jablon, Director  
cc: Cooperative Services, Inc.  
Margaret C. Raglieri, Esq.  
G. Scott Barhight, Esq.  
NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.  
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.  
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government  
Office of Zoning Administration  
and Development Management  
111 West Chesapeake Avenue  
Towson, MD 21204  
(410) 887-3353  
May 23, 1995  
RE: Item No.: 366  
Case No.: 95-373-A  
Petitioner: Cooperative Services  
Dear Mr. Barhight:  
The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approving agencies, has reviewed the plans submitted with the above referenced petition. Said petition was accepted for processing by the Office of Zoning Administration and Development Management (ZADM), Development Control Section on April 19, 1995.  
Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties; i.e., zoning commissioner, attorney, petitioner, etc. are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.  
If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).  
Sincerely,  
W. Carl Richards, Jr.  
Zoning Supervisor  
WCR/jw  
Attachment(s)

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management  
DATE: May 10, 1995  
FROM: Pat Keller, Director  
Office of Planning and Zoning  
SUBJECT: Petitions from Zoning Advisory Committee  
The Office of Planning and Zoning has no comments on the following petition(s):  
Item Nos. 365, 366 and 369.  
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.  
Prepared by: Jeffrey W. Long  
Division Chief: Gary L. Keen  
PK/JL  
ZAC365/PZONE/ZAC1

Maryland Department of Transportation  
State Highway Administration  
O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator  
Ms. Joyce Watson  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204  
Re: Baltimore County  
Item No.: 366 (MTK)  
Dear Ms. Watson:  
This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.  
Please contact Bob Small at 410-333-1350 if you have any questions.  
Thank you for the opportunity to review this item.  
Very truly yours,  
Bob Small  
for Ronald Burns, Chief  
Engineering Access Permits  
Division  
BS/

Baltimore County Government  
Fire Department  
700 East Joppa Road Suite 901  
Towson, MD 21286-5500  
(410) 887-4500  
Arnold Jablon, Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204  
TEL 870-1100  
Property Owner: SEE BELOW  
DISTRIBUTION MEETING ON MAY 11, 1995.  
Item No.: SEE BELOW  
Zoning Agency:  
Petitioner:  
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.  
8. The Fire Marshal's Office has no comments at this time.  
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 362, 363, 364, 365, 366, 367, 369, 370, 371, 372, 373, 375, 376 and 377.  
RECEIVED  
MAY 8 1995  
ZADM  
REVIEWER: LT. ROBERT P. SAUERHAUD  
Fire Marshal Office, PHONE 887-4601, RS-1100P  
cc: File  
Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE  
TO: Arnold Jablon, Director  
Zoning Administration and Development Management  
DATE: May 8, 1995  
FROM: Robert W. Bowling, P.E., Chief  
Developers Engineering Section  
RE: Zoning Advisory Committee Meeting  
for May 8, 1995  
Items 362, 363, 364, 366, 367, 369, 372, 373, 374 and 375 and Case No. 95-308-X  
The Developers Engineering Section has reviewed the subject zoning item and we have no comments.  
RWB:ew

PETITION PROBLEMS  
AGENDA OF MAY 1, 1995

#363 --- RT

1. No signature for contract purchaser.

#366 --- MJK

1. Need authorization for person signing for legal owner.
2. Need authorization for person signing for contract purchaser.
3. Why isn't "Franklin Avenue" (property location) mentioned in the description?

#367 --- JCM

1. Folder not marked critical.

#372 --- RT

1. Only one legal owner signature on back of petition form.

#376 --- RT

1. Folder not marked critical.

#377 --- RT

1. Folder not marked critical.

RE: PETITION FOR VARIANCE \* BEFORE THE  
1000 Franklin Avenue (Essex Cooperative \* ZONING COMMISSIONER  
Apartments), E/S Marlyn Avenue, opposite \*  
Myrth Avenue, 15th Election District, \* OF BALTIMORE COUNTY  
5th Councilmanic \*  
Cooperative Services, Inc. / \* CASE NO. 95-373-A  
American PCS, L.P. \*  
Petitioners \*

\* \* \* \* \*

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman  
PETER MAX ZIMMERMAN  
People's Counsel for Baltimore County

Carole S. Demilio  
CAROLE S. DEMILIO  
Deputy People's Counsel  
Room 47, Courthouse  
400 Washington Avenue  
Towson, MD 21204  
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9<sup>th</sup> day of May, 1995, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman  
PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME  
Greg Sarco

ADDRESS  
6901 Rockledge Dr.  
Bethesda MD 20817

Andrew Werchniak

Two Skyline Place  
5203 Leesburg Pike  
Suite 800

MIKE MAGUIRE

Falls Church, VA 22041  
200 E. PENNSYLVANIA AVE  
TOWSON MD 21286

Debbie Meaney

Shady Grove Rd  
Rockville MD 20850

American Personal  
Communications

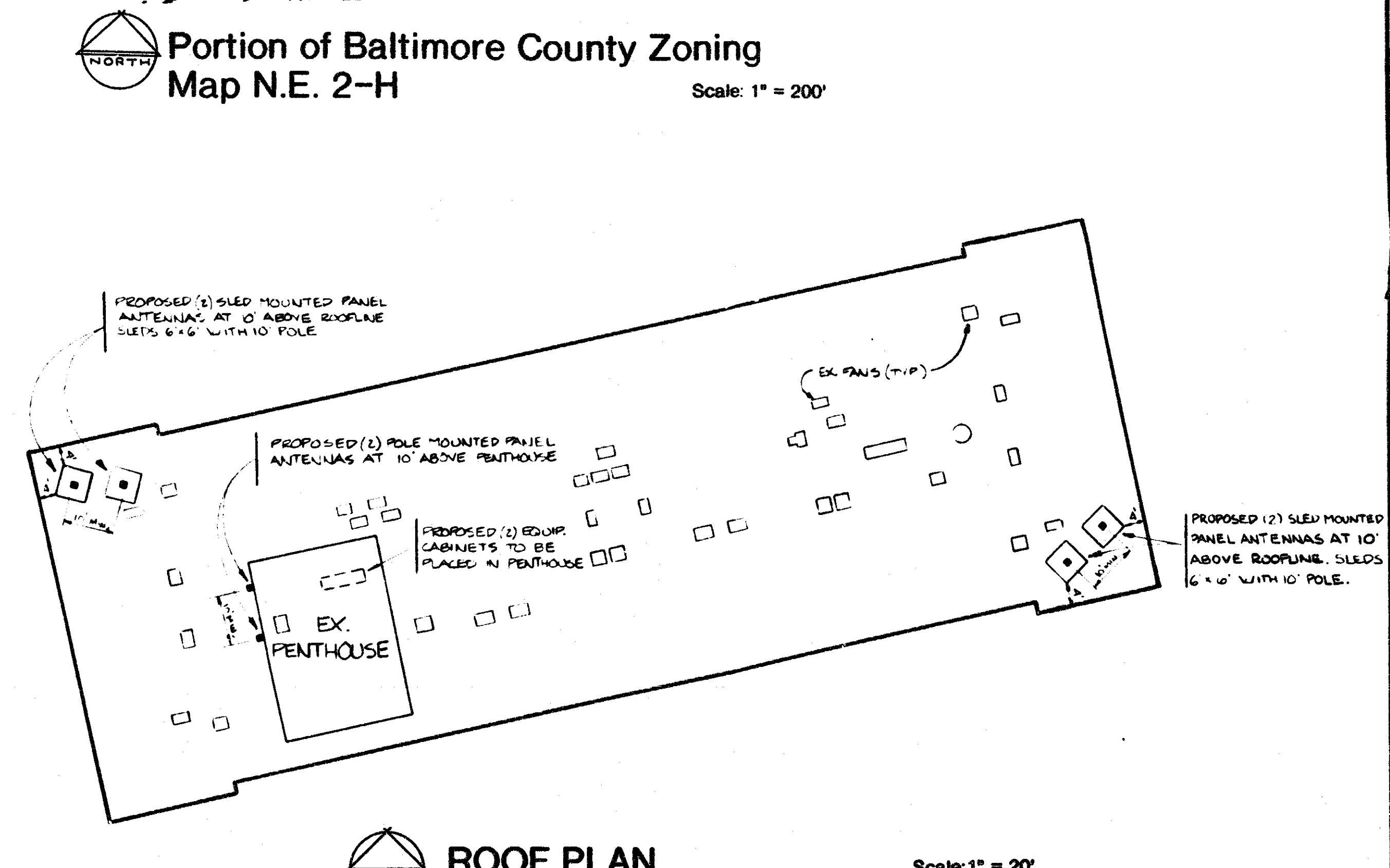
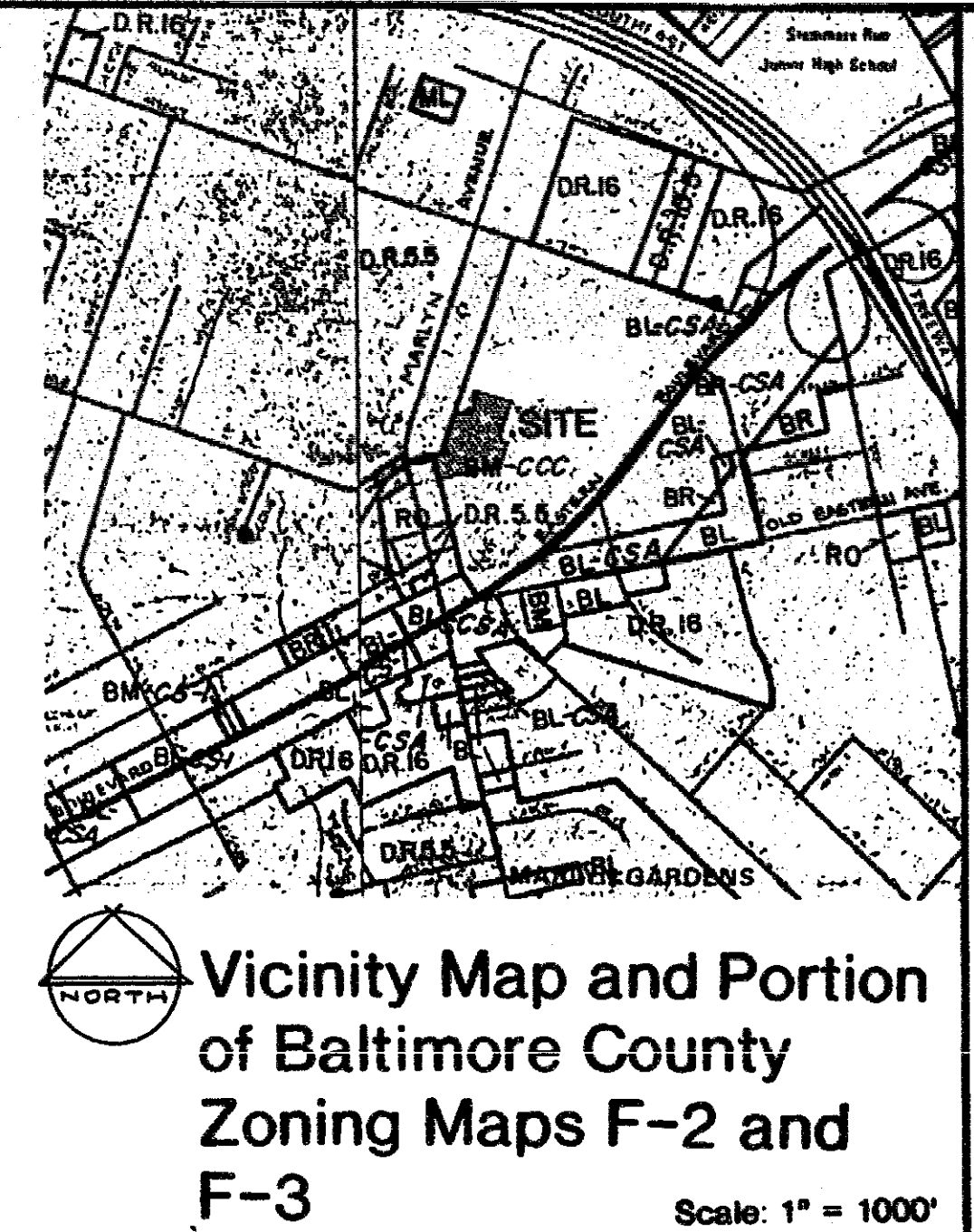
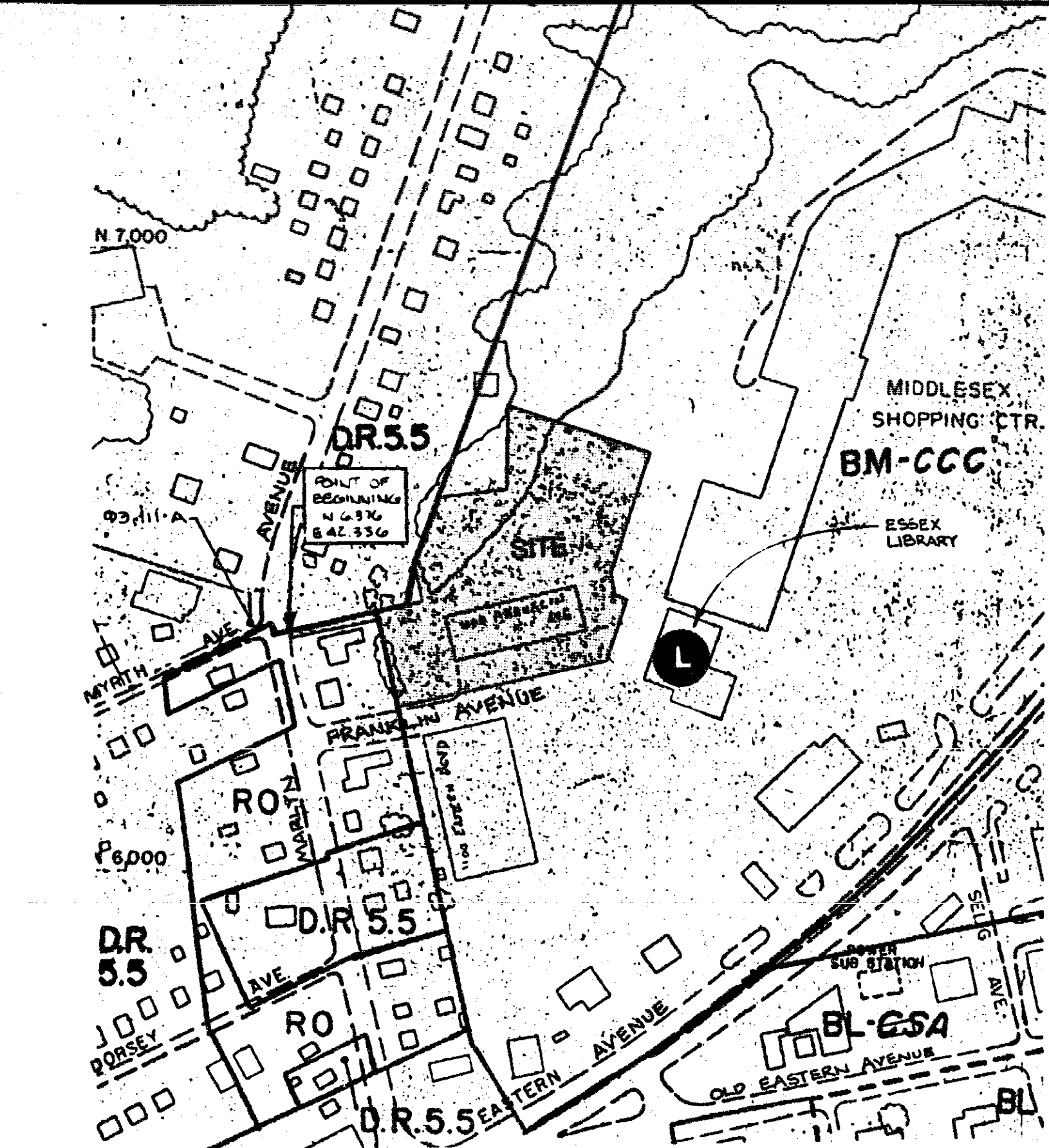
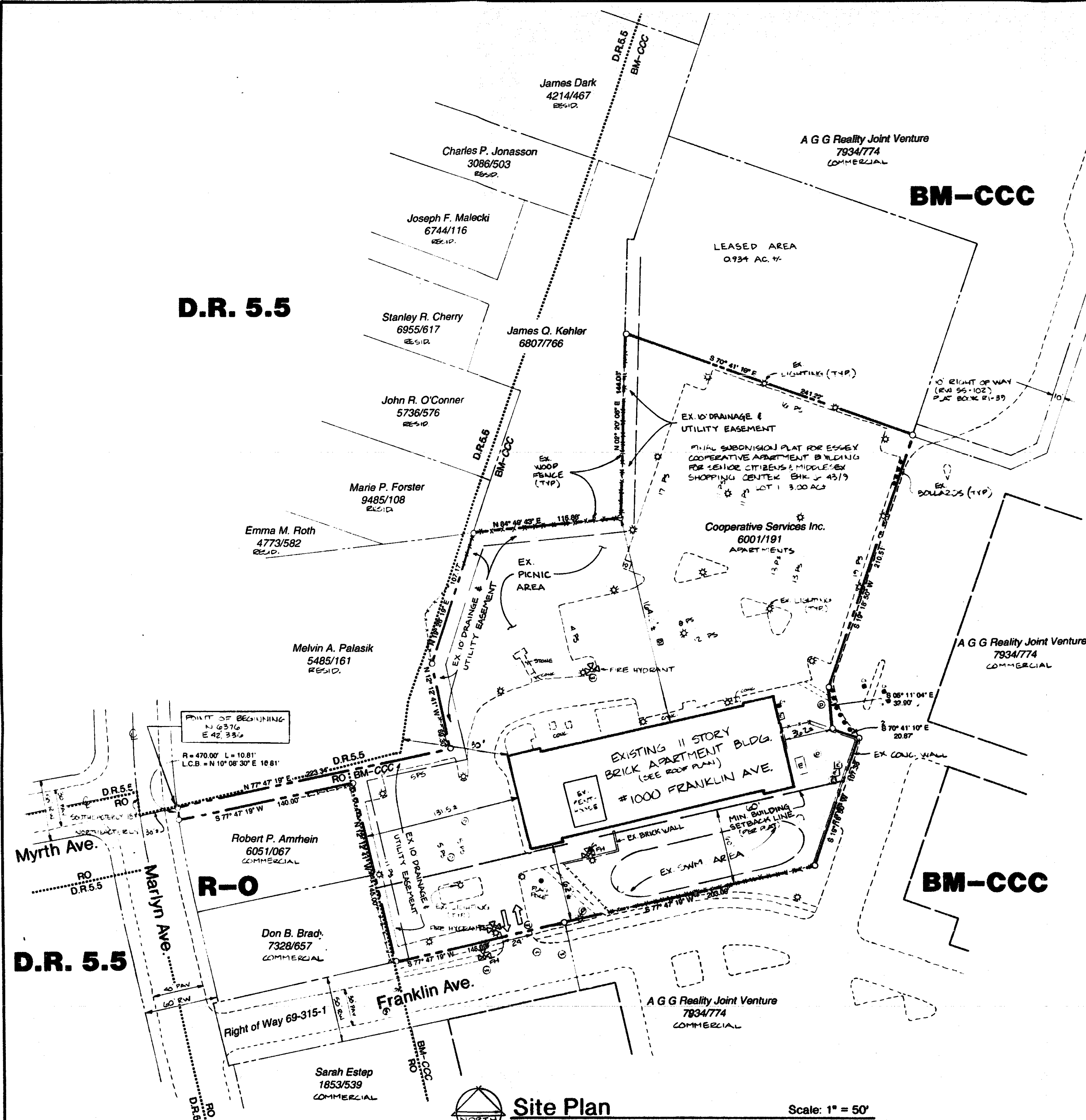
AMERICAN PERSONAL COMMUNICATIONS (APC)  
HEARING BEFORE THE BALTIMORE COUNTY  
ZONING COMMISSIONER  
May 30, 1995

TABLE OF CONTENTS

1. Photographs of 1000 Franklin Avenue
2. Photographs and Specification Sheets for Antennas
3. Photograph and Specification Sheets for Equipment Cabinets
4. FCC License
5. FCC Adopts ANSI EMF Regulations
6. Radio Frequency Statement - Jules Cohen
7. FCC Statement on PCS - Creating Significant Benefits for Consumers and Business
8. FCC's Chairman, Reed Hundt, Speech Excerpts

PETITIONER'S  
EXHIBIT 2





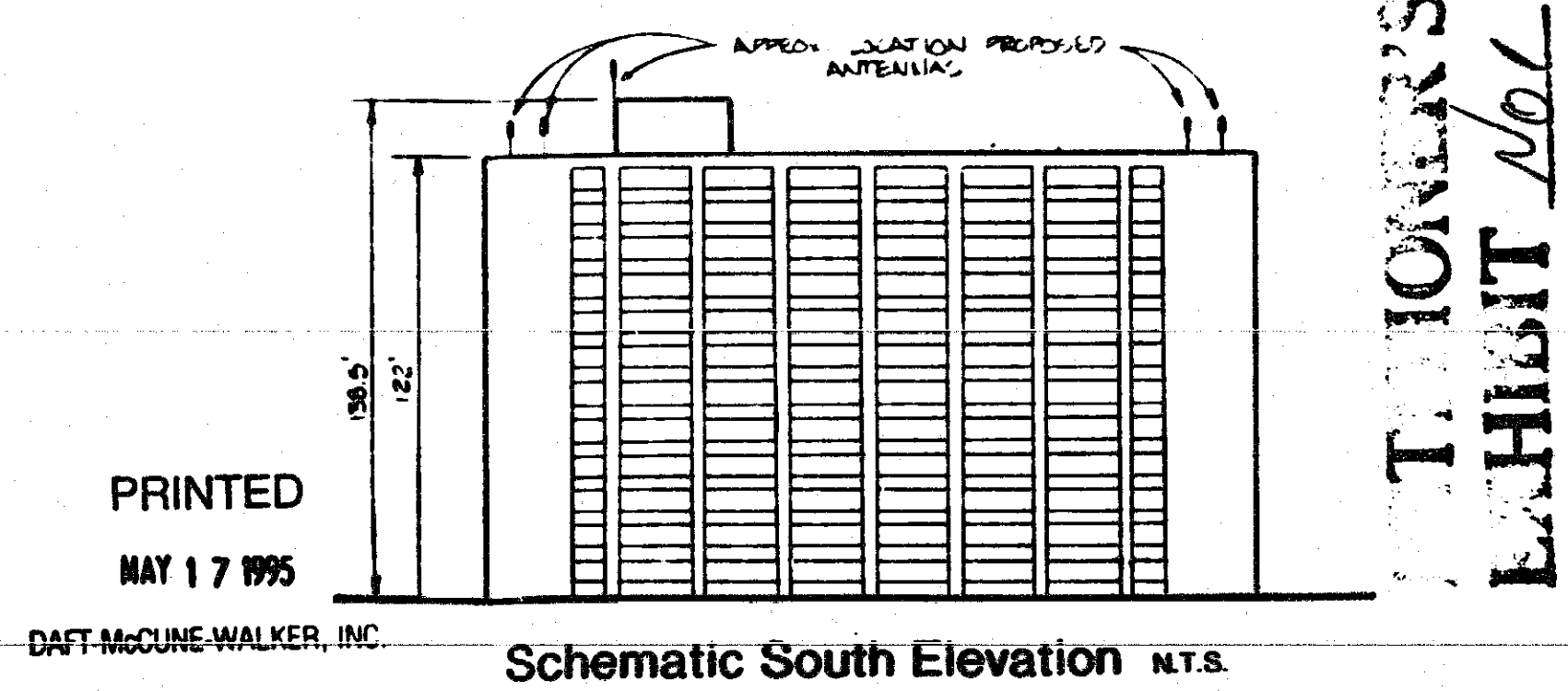
- NOTES:**
- Current owner and street address: Cooperative Services, Inc. 1000 Franklin Avenue Baltimore, MD 21221
  - Contract lessee: American PCS, L.P. One Democracy Center 6901 Rockledge Drive, Suite 600 Bethesda, MD 20817
  - Site area: 3,000 Ac ±
  - Existing use: Apartments for the elderly and related off-street parking
  - Street Address: 1000 Franklin Avenue Baltimore, MD 21221
  - Site data: Tax map 90, block 721 - 1 Deed reference: 6001/191 Plat Reference: 439, Lot 1 Tax Account No. 15-1800007067 Zoning: BM - CCC Election District: 15 Councilmanic District: 5
  - The proposed roof mounted wireless transmitting and receiving facility will consist of (6) 53.3' high x 6.3' wide x 2.7' deep panel antennas, and (2) 4'-5" high x 4'-11" wide x 1'-5" deep equipment cabinets.
  - No water or sanitary utilities are required for the facility.

- The information and boundary location shown hereon have been compiled from sources believed to be reliable; however their accuracy is not guaranteed and is subject to revision.
- Environmental protection agency standards and guidelines relating to radiation emissions shall be met at all times.
- No additional site or antenna lights are proposed.
- Zoning History: None on this parcel.
- There are no signs proposed for this facility.
- Setbacks:
 

	Required to Building	Provided to Building
Front:	60'	62.0' ±
Side (east):	25'	38.2' ±
Side (west):	25'	131.5' ±
Rear:	25'	164.5' ±
- Amenity open space: Required Minimum: 0.20 ac ± Provided: 0.35 ac ±
- Floor Area Ratio: Allowed Maximum: 4.00 Provided: 1.85

- Parking: Required Spaces: 250 Existing Spaces: 150 Proposed Spaces: 0
- The proposed wireless transmitting and receiving facility does not block or affect any existing parking spaces.
- This site was the subject of the following Commercial Permits:
 

179-81	Building Alterations
1058-80	Installation of tank
1143-79	Grading
1144-79	S.W.M.
1180-78	Fence
1533-78	Building Construction
743-78	Fence
- Requested Zoning Action: Variance from § 426.1.B to permit a set back of 80 feet from a residential zone for a wireless transmitting and receiving facility in lieu of the required 200 feet.



**DMW**  
Deft McCune-Walker, Inc.  
A Team of Land Planners,  
Landscape Architects,  
Engineers, Surveyors &  
Environmental Professionals  
200 E. Pennsylvania Avenue  
Towson, Maryland 21206  
(410) 296-1333  
Fax: 296-4705

**American Personal Communications**  
Site Plan to Accompany Petition for Variance  
**Essex Cooperative Apartments**  
BAN 40  
Baltimore County, Maryland  
18th Election District

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